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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,785	10/18/2001	John Loring Yester	201-0303 JMS	5437

28395 7590 10/16/2003  
 BROOKS KUSHMAN P.C./FGTL  
 1000 TOWN CENTER  
 22ND FLOOR  
 SOUTHFIELD, MI 48075-1238

EXAMINER

NGUYEN, THU V

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 10/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/682,785

Applicant(s)

YESTER ET AL.

Examiner

Thu Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-5,7-9,11-14,16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 7-9, 11-14, 16-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

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### **DETAILED ACTION**

The amendment filed on July 30, 2003 has been entered. By this amendment, claims 2, 6, 10, and 15 have been canceled, and claims 1, 3-5, 7-9, 11-14, 16-17 are now pending in the application.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-5, 7-9, 11-14, 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zanchi et al (U.S 5,633,484) in view of Berstis et al (U.S 6,198,996)

As per claim 1, 4, Zanchi teaches a system for selectively setting a variable operating parameter for a vehicle device and a corresponding non-vehicle device (col.2, lines 32-37, lines 66-67; col.3, lines 1-2), the system comprises: a portable information storage device for receiving from a human operator, and storing information representative of a particular operating parameter (col.2, lines 37-40, lines 58-67; col.3, lines 1-2); a vehicle interface and control system connected to an on-board device for setting the vehicle device based on the information in the

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portable information storage device (fig.5; col.1, lines 30-35; col.2, lines 60-65); a non-vehicle interface connected to an off-board control system for setting a value of the variable operating parameter for the non-vehicle device corresponding to the user preference (col.2, lines 58-67; col.3, lines 1-2). Zanchi does not explicitly teach storing the vehicle usage and setting a value for the variable operating parameter of the non-vehicle system according to the vehicle usage. However, Zanchi teaches that the user's preferences include volume preferences, the tone preferences, which are the usage of a device and user's preferences such as the broadcast station (col.7, lines 4-12), and further teaches the capability of updating the usage data (col.3, lines 65-67; col.4, lines 1-4). Moreover, Berstis teaches storing and updating the information representing the usage (the volume) of the vehicle device (col.19, lines 54-65; col.18, lines 61-65; col.10, lines 43-60). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the capability to update the usage data of the vehicle device of Berstis when the portable information storage device of Zanchi is in a vehicle in order to adjust the corresponding non-vehicle device with the newly changed usage data.

As per claim 3, Zanchi teaches using a wireless communication device for generating and receiving information (col.3, lines 37-40).

As per claim 5, 7-9, 13-14, 16-17 refer to discussion in claim 1, 3-4 above.

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As per claim 11-12, Zanchi teaches storing changes to the user preference on the portable information storage device upon user command (col.3, lines 65-67; col.4, lines 1-4). Further, automatically storing information representing the changes of the user preference on a portable medium would have been well known.

### ***Response to Arguments***

3. Applicant's arguments filed July 30, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument on page 8, last paragraph, it is admitted that in col.10, lines 43-60 Berstis teaches storing the device usage on the on-board memory device 22 (fig.2). However, Berstis appears to teach the capability to updating the vehicle usage in *either* the on board memory device 22 (fig.2) *or* the smartcard portable storage device (col.19, lines 54-65; col.18, lines 61-65). In view of the teaching in col.19, lines 54-65; col.18, lines 61-65, the capability of storing the device usage onto the smartcard would have been obvious.

In response to applicant's argument on page 9, first paragraph, applicant's assertion of the difference between the user's preference and the usage data. However, the usage data as best understood by the examiner is in fact the user preference data (for example: the volume level, the temperature) that is set by the user's adjustment on the vehicle device (such as the user's adjustment on the radio or on the thermostat). It is admitted that Zanchi does not teach storing the usage (the user's preference that is adjusted on the vehicle device). However, Zanchi teaches

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the capability of updating the user's preference data (such as the volume) on the portable memory device (col.7, line 10; col.3, lines 65-67; col.4, lines 1-2), and Berstis teaches the capability to update the usage data on the portable memory device (col.18, lines 6-65; col.19, lines 54-65; col.10, lines 56-60). An ordinary person at the time the invention was made would be able to update the usage (the preference that is set on the vehicle device) on the smartcard of Zanchio using the updating mechanism taught by Berstis.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**Any response to this final action should be mailed to:**

**Box AF**

Commissioner of Patents and Trademarks

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Washington, D.C. 20231

**or faxed to:**

(703) 305-7687, (for formal communications; please mark "EXPEDITED  
PROCEDURE")

**Or:**

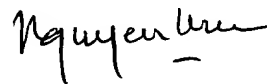
(703) 305-7687 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park V, 2451 Crystal  
Drive, Arlington, VA., Seventh Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner  
should be directed to Thu Nguyen whose telephone number is (703) 306-9130. The examiner  
can normally be reached on Monday-Thursday from 8:00 am to 6:00 pm ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, William Cuchlinski, can be reached on (703) 308-3873. The fax phone number for  
this Group is (703)305-7687 .

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the Group receptionist whose telephone number is (703)308-1113.



**THU V. NGUYEN  
PRIMARY EXAMINER**

October 9, 2003